IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Crl.MC.No. 2225 of 2007()

CC.463/2000 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PALAKKAD

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PETITIONER: ACCUSED 1 TO 3

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1. YAHU, S/O.ALI, VENDAKKUNNU PARAMBU,
   KUNDALASSERY, KNONGAD, PALAKKAD.

2. FATHIMA, W/O.YAHU,
   VENDAKKUNNU PARAMBU, KUNDALASSERY, KONGAD,
   PALAKKAD.

3. MARIA, W/O MOIDEEN, PERIYA NAGAR,
   RAMANATHAPURAM, COIBATORE, TAMILNADU.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS: RESPONDENT

STATE REPRESENTED BY S.I. OF POLICE,
KONGAD, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2225 of 2007

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Dated this the 11th day of July, 2007

O R D E R

The petitioners face indictment in a prosecution for offences punishable, inter alia, under Section 324 I.P.C. All offences alleged are bailable. Final report has been filed. Cognizance has been taken. But on account of non-appearance of the petitioners, the case against them has been transferred to the list of long pending cases. Warrants of arrest issued by the learned Magistrate are chasing the petitioners. According to the petitioners they are absolutely innocent. Their absence earlier was not wilful. They are willing to appear and co-operate with the court to expeditiously complete the proceedings. But they apprehend that their applications for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioners on bail on the date of surrender itself.

2. I do not find any circumstance justifying the issue of any direction under Section 482 Cr.P.C. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned

Magistrate the circumstances under which they could not appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners when they surrender before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over the order.

(R. BASANT)
Judge

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